

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 05-0157P

Income Tax

For the Calendar Year 2003

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ISSUE

I. **Tax Administration** – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2;

The taxpayer protests the late penalty.

STATEMENT OF FACTS

The late penalty was assessed on the late payment of a calendar year individual income tax return for the year 2003.

The taxpayer is an Indiana resident.

I. **Tax Administration** – Penalty

DISCUSSION

The taxpayer requests the late penalty be abated as the taxpayer was ignorant of tax regulations, and, the taxpayer did not have all of the relevant information at the due date to prepare the income tax return.

The taxpayer incurred a \$4,000,000 increase in reportable income for the tax year in question.

\$2,400,000 of this income increase came from the disallowance of losses as the State of Indiana does not recognize Federal Schedule A deductions. The taxpayer was ignorant of this regulation. According to 45 IAC 15-11-2(b), ignorance is negligence and is subject to the negligence penalty.

The remaining \$1,600,000 of the income increase is the result of an increase in the rate-of-return for the taxpayer's investments. 70% of the investment entities provided the relevant tax records by the tax filing due date. Of the remaining 30%, most of these investment entities were hedge funds where the income could be estimated from 3rd quarter financials. The Department feels the taxpayer had adequate information available to make a reasonable estimate of income at the due date.

The Department finds the taxpayer was inattentive of tax duties. Inattention is negligence and negligence is subject to penalty. As such, the Department finds the penalty proper and denies the penalty protest.

FINDING

The taxpayer's penalty protest is denied.

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